IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

CRL.A.No. 605 of 2001()

CC.759/1999 of JUDICIAL MAGISTRATE OF 1ST CLASS, PARAVOOR.
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APPELLANT: COMPLAINANT

YOHANNAN KUTTY, BHABU BHAVAN,
ADICHANALLOOR POST, KOLLAM, REP.BY
POWER OF ATTORNEY HOLDER NINAN PHILIP,
NEDIYAVILA VEEDU, KATTACHAL,
CHENKULAM POST, KOLLAM.

BY ADV. SRI.B.SURESH KUMAR

RESPONDENTS: ACCUSED AND THE STATE
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1. **HAMSA, LIZIYA MANZIL, KARAMMUDU,**
   KUNDAYAM POST, PATHANAPURAM.

2. **STATE OF KERALA,**
   REP.BY ITS PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.605 of 2001

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Dated this the 2nd day of August, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.759/1999 in the file of the Judicial Magistrate of the First Class, Paravoor, the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(1) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of the wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 31/08/2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.A.No.605 of 2001

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J U D G M E N T

2nd August, 2007